

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

ACCIDENT INSURANCE COMPANY, INC.

CIVIL ACTION NO.: 6:13-cv-387

v.

JUDGE DOHERTY

BENJAMIN B. BLANCHET, ET. AL.

MAGISTRATE HANNA

**MOTION TO DISMISS OR ALTERNATIVELY,
MOTION TO STAY ACTION**

NOW INTO COURT, through undersigned counsel, come Henry A.. Boudreaux, Jr. (hereinafter "Boudreaux") and HSB Design and Contractors, LLC (hereinafter "HSB") and pursuant to Rule 12(b), Federal Rules of Civil Procedure, move to dismiss this Declaratory Judgment action in favor of the actual controversy between the parties now pending in the Fifteenth Judicial District Court, Parish of Vermilion, State of Louisiana, in the matter entitled: *Benjamin B. Blanchet and Anne B. Blanchet v. Henry A.. Boudreaux, Jr. and HSB Design and Contractors, LLC*, Docket No.: C-96178.

Plaintiff's complaint should be dismissed because plaintiff cannot meet the essential elements for declaratory relief under the Declaratory Judgment Act, 28 U.S.C.A. §2201, and fails to state a claim on which relief can be granted. Plaintiff can assert in the litigation between the parties that is pending in the above described state court action all of the issues on which it seeks either declaratory or affirmative relief in this court. As a result, plaintiff's declaratory complaint fails to state a claim for relief under the Declaratory Judgment Act, 28 U.S.C.A. §2201.

Alternatively, Henry A.. Boudreaux, Jr. and HSB Design and Contractors, LLC move that this Court stay all proceedings in this action pending the final judgment of the

Benjamin B. Blanchet and Anne B. Blanchet v. Henry A.. Boudreaux, Jr. and HSB Design and Contractors, LLC, Docket No.: C-96178.

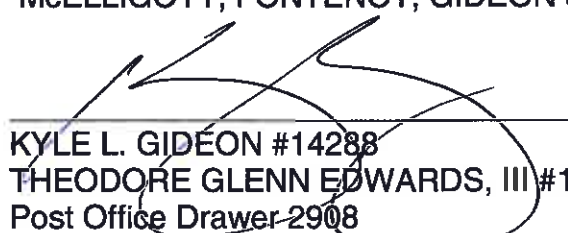
Henry A.. Boudreaux, Jr. and HSB Design and Contractors, LLC request that this Court abstain from exercising its jurisdiction over the matter pursuant to the *Brillhart* Discretionary Abstention Doctrine. *Brillhart v. Excess Ins. Co. of America*, 316 U.S. 491 (1942).

The above and foregoing Motion to Dismiss or Alternatively, Motion to Stay Action is brought on the further grounds stated and contained in the accompanying Memorandum in Support of Motion to Dismiss or Alternatively, Motion to Stay Action.

AND FOR ALL GENERAL AND EQUITABLE RELIEF, ETC.

Respectfully submitted:

DAVIDSON, MEAUX, SONNIER,
McELIGOTT, FONTENOT, GIDEON & EDWARDS



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and Contractors, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of March, 2013, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system.



KYLE L. GIDEON